

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Rajinell King,

Plaintiff,

v.

Case No. 12-13256

Commissioners of Social Security,

Honorable Sean F. Cox

Defendant.

ORDER
ACCEPTING AND ADOPTING REPORT & RECOMMENDATION

Plaintiff brought this action challenging the Commissioner's denial of benefits. Thereafter, the matter was referred to Magistrate Judge Mona Majzoub for determination of all non-dispositive motions pursuant to 28 U.S.C. § 636(b)(1) and Report and Recommendation pursuant to § 636(b)(1)(B) and (C).

Thereafter, Defendant filed a motion for summary judgment. In a Report and Recommendation ("R&R") issued on July 30, 2013, Magistrate Judge Majzoub recommends "that Defendant's motion for summary judgment (docket no. 18) be denied and this matter be remanded to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g). (Docket Entry No. 20).

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being served with a copy of the R&R. "The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the

magistrate judge's disposition to which specific written objection has been made." *Id.*

On August 13, 2013, Defendant filed objections to the R&R. (Docket Entry No. 21). Defendant asserts that in light of Dr. Carter's comment that Plaintiff had a "severe tendency to exaggerate her symptoms," the new test results are unlikely to justify a different disposition. Defendant also asserts that the magistrate judge gave too much weight to the existence of a new diagnosis of a Bipolar II disorder in one of the new examinations and that the magistrate judge did not sufficiently address issues concerning Global Assessment of Functioning scores.

The Court finds these objections without merit. Magistrate Judge Majzoub recommended a sentence six remand for consideration of new evidence, which includes two psychological evaluations of Plaintiff that were completed in close proximity to the date of the ALJ's decision. As noted in the R&R, those evaluations are more detailed and thorough than any others contained in the record. Although Dr. Carter made a comment regarding exaggeration of symptoms, the second psychologist who evaluated Plaintiff did not make such comments and diagnosed Plaintiff with Bipolar II disorder. This Court concludes that the magistrate judge gave that new diagnosis appropriate weight in considering whether a remand is appropriate. This Court concurs with the magistrate judge's analysis and her ultimate conclusion that justice will be best served if this matter is remanded to the Commissioner for consideration of the new evidence, pursuant to sentence six of 42 U.S.C. § 405(g).

The Court hereby ADOPTS the July 30, 2013 R&R. IT IS ORDERED that Defendant's Motion for Summary Judgment is DENIED. IT IS FURTHER ORDERED that this matter is hereby REMANDED to the Commissioner pursuant to sentence six of 42 U.S.C. §405(g).

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: September 12, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 12, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy

Case Manager